

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JEFFERSON BURGESS,)	
Petitioner,)	
)	
v.)	C.A. No. 10-40028-PBS
)	
WARDEN J. GRONDOLSKY, ET AL.,)	
Respondent.)	

MEMORANDUM AND ORDER

June 14, 2010

SARIS, D.J.

In support of its Motion to Dismiss, Respondent cites to case law from other districts that have held that the statutory phrase "term of imprisonment to which the offender was sentenced" in 42 U.S.C. § 17541(g) unambiguously refers to the term of the sentence imposed by the sentencing court and does not include consideration of good time credit in determining the eligibility for participation in the pilot program under the Second Chance Act. See Mathison v. Davis, 2010 WL 1769250 (D. Colo. 2010); Mangiardi v. Federal Bureau of Prisons, 2009 WL 4544747 (M.D. Pa. 2009). At least one court, however, has left open this question. See Hoffenberg v. Warden, Fort Dix Prison, 2009 WL 2778427, *6 (D.N.J. 2009) ("... because this Court has no information about Petitioner's good-conduct credit or pre-conviction confinement, or similar factors that might render Petitioner's already-served period of confinement equal to 75% of his sentence, the Court-out of an abundance of caution-enters no opinion as to whether Petitioner could be eligible for consideration under Section

17541(g)).

In light of this, and in light of the complex or novel issue presented, and, in view of the fact that *pro se* petitioner is not skilled in the law, this Court finds that it would be in the interests of justice to appoint counsel for petitioner pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A so that further briefing on this issue may be filed.

Accordingly, unless petitioner objects to the appointment of counsel within 14 days of the date of this Order, the Clerk shall appoint counsel for him. Should counsel be appointed for petitioner, he may not file further pleadings *pro se*, unless he first has consulted with his court-appointed counsel and files a certification with this Court that he has done so.

Within 14 days after appointment of counsel or after petitioner files an objection, the parties shall submit a Joint Status Report with proposals for the filing of further briefs on this issue.

SO ORDERED.

/s/ Patti B. Saris
PATTI B. SARIS
UNITED STATES DISTRICT JUDGE